

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

| | | |
|--------------------------------|---|---------------------|
| RONALD GARY LOOMAN |) | CV 11-143-M-DWM-JCL |
| |) | |
| Plaintiff, |) | |
| v. |) | ORDER |
| |) | |
| STATE OF MONTANA; |) | |
| MONTANA DEPARTMENT |) | |
| OF CORRECTIONS; TROY |) | |
| McQUEARY, individually; |) | |
| INTERNATIONAL UNION OF |) | |
| OPERATING ENGINEERS |) | |
| NATIONAL TRAINING FUND; |) | |
| DAVE LIEDLE, individually; and |) | |
| DOES 3–100, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

Ronald Looman is a prisoner incarcerated at the Montana State Prison in Deer Lodge, Montana. He brought several claims against the defendants after he was injured while working on a truck in the prison’s Equipment Maintenance Shop. The Court previously dismissed many of the claims, and Looman settled his claims against the State defendants. The only remaining claim, then, is the negligence claim against International Union of Operating Engineers National Training Fund.

Judge Lynch issued Findings and Recommendations, recommending that International Union be dismissed. A final pretrial conference is scheduled for February 15, 2013, so the Court ordered Looman to file any objections to the Findings and Recommendation early, by February 12, 2012. Looman, however, did not file any objections. The Court therefore reviews Judge Lynch's Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The Court finds no clear error in Judge Lynch's Findings and Recommendation. Looman has not shown that Dave Liedle—International Union's employee—knew of any danger associated with working on the air brake canister. Nor has Looman shown that a reasonably prudent person in Liedle's position should have been aware of any danger. Judge Lynch did not clearly err when he concluded that International Union is entitled to summary judgment on Looman's negligence claim against it, which is premised on Liedle's conduct.

Moreover, Looman has not presented any evidence that International Union negligently maintained the truck. Judge Lynch did not clearly err in granting summary judgment in favor of International Union on this aspect of the negligence claim.

Judge Lynch provided a detailed explanation of why neither Liedle nor

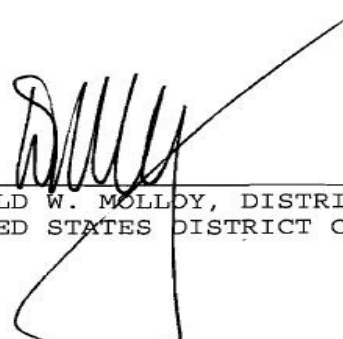
International Union are liable for Looman's injuries. The Court adopts that reasoning in full. The Court need not address the remainder of Judge Lynch's Findings and Recommendation, since it is moot in light of Looman's settlement with the State defendants.

IT IS FURTHER ORDERED that International Union's motion for summary judgment (doc. 71) is GRANTED. Looman's claims against International Union are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that the State defendants' motion for summary judgment (doc. 68) and Looman's motion for summary judgment (doc. 76) are DISMISSED AS MOOT.

IT IS FURTHER ORDERED that the final pretrial conference and jury trial for this matter are VACATED. The Clerk of Court is directed to enter judgment and close this case.

Dated this 13th day of February 2013.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT